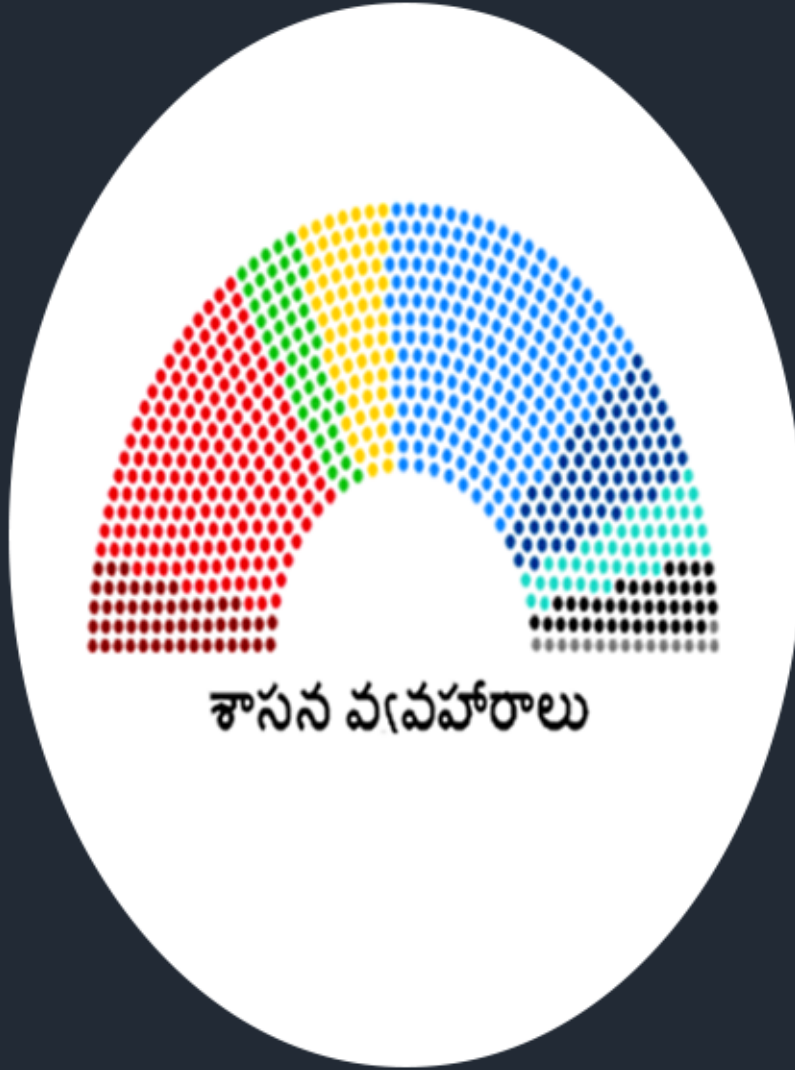


# LEGISLATIVE MATTERS





**SECRETARIAT OFFICE MANUAL SERIES**

# **LEGISLATIVE MATTERS**

**Edition No.1  
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# **1 QUESTIONS**

## **1.1 Circulation of advance copy**

- (1) As soon as a question which is admitted is received from the Legislative Assembly Secretariat, circulate an advance copy of it to the Minister or Ministers concerned.
- (2) Restrict such circulation to questions which the circulating officer considers so important that Minister or Ministers should see them in advance.

## **1.2 References on questions**

### **1.2.1 General**

- (1) Don't make references to Heads of Departments for information regarding answers to questions except in cases of real necessity.
- (2) When information is required from Heads of departments to answer a question call for only the necessary particulars.
- (3) While calling for information from Head of the Department, don't forward the question itself unless it is absolutely necessary for a clear understanding of the case.
- (4) Never call for a report on the question.
- (5) Communicate the name of the Member of the Legislature who puts the question where necessary.

### **1.2.2 Complaints**

- (1) When an allegation or complaint which casts a reflection on the official conduct of a Government Officer, is contained in a question and the truth of such allegation or complaint has to be verified by a reference to the Head of a Department or other authority, send a self contained letter stating the facts as reported and asking for their verification.
- (2) Never disclose the source of the allegation or complaint.
- (3) Don't communicate the question or the letter of the Member of the Legislature to the Head of the Department or other authority.
- (4) Mark all correspondence "confidential".



### **1.3 Draft answers and notes for supplementaries**

- (1) Apart from the note discussing the matter, in case of a starred question, put up a draft answer to the question together with a concise note for answering supplementary questions.
- (2) When preparing a draft answer write the word “Starred” in red letters or the word “Un-starred” in black letters, as the case may be, at the top of the draft.
- (3) In the draft, print on the same sheet of paper the clauses of the question and the draft answers in parallel columns. The clauses of the question should appear on the left half of the page above the answers.
- (4) Furnish a Telugu translation of the answer and the note for supplementaries to the Minister, if a Member puts the question in English.
- (5) Despatch twenty-five copies of the answers to questions whether starred or un-starred to the Legislative Assembly Secretariat.
- (6) Immediately on receipt of the list of starred questions and of un-starred questions with answers to be answered at particular sittings scrutinize the lists.

### **1.4 Answers requiring co-ordination**

- (1) Send to the Secretaries concerned copies of notices containing all questions admitted by the Speaker as soon as possible, after their admission. (Assignee: Secretary Legislature)
- (2) Before dispatching the copies of notices, examine them and if there are any questions, the answers to which, in your opinion, require co-ordination, invite the attention of the Secretary concerned to such questions. (Assignee: Secretary Legislature)
- (3) Don't send separate and varying answers to the Legislative Assembly Secretariat. Circulate the proposed answers to other secretaries and arrive at a uniform answer to the question. Send the answers to the questions thus arrived at to the Legislative Assembly Secretariat quoting the number and date of their reference in which the Secretaries concerned were requested to coordinate the answers. (Assignee: Secretaries concerned)
- (4) Scrutinize the notices immediately on receipt and point out to the Legislative Assembly Secretariat as well as to all the departments concerned the questions, the answers to which in your opinion require co-ordination. (Assignee: Secretaries concerned)

- (5) Inform the Legislative Assembly Secretariat of the withdrawal or modification, if any, of an answer already dispatched sufficiently in advance. (Assignee: Secretary concerned)

### 1.5 Time limit for dispatch of answers

- (1) Send answers ordinarily within 15(Fifteen) days from the date of admission of the question. Find the date of admission on the copy received from the Legislative Assembly Secretariat. (Assignee: Secretary concerned)
- (2) If this is not possible, make an application for extension of time not exceeding two weeks to the Secretary Legislature showing sufficient cause for such extension. (Assignee: Secretary concerned)
- (3) Don't grant further extension of time and include the question in the list of questions after the expiry of the extended time. (Assignee: Secretary Legislature)
- (4) If application for extension of time is not made, include the question in the list of questions whether an answer has been sent or not. (Assignee: Secretary Legislature)
- (5) In order to avoid undue delay in the dispatch of answers to the questions, maintain a register in the Form given below. (Assignee: AS concerned)

#### FORM - Register Legislative Questions

serial number	question	LAQ/ LCQ	starred or unstarred	date of receipt	stage at which the matter stands	remarks
1	2	3	4	5	6	7

- (6) Submit the register to MLO/ Secretary once a week until the answer is dispatched. (Assignee: AS concerned)
- (7) The officer inspecting the register will watch whether there is any unreasonable delay in putting up the files by the sections or in the submission of answers by the subordinate authorities.

### 1.6 Preparing and sending replies

- (1) Print 253(Two Hundred and Fifty Three) copies of the answers to a Legislative Assembly Question, 250 (Two Hundred and Fifty) copies for the Legislative

Assembly Secretariat, one copy each for the Personal Assistant to Minister concerned and the Private Secretary to Governor, and one copy for being kept in the file for record and reference.

- (2) When the draft answer has been approved by more than one Minister, mention the designations of all such Ministers in the answer issued. Mention in the question portion, the designation of the Minister who will answer the question.
- (3) When in any answer reference is made to any Government Order or Notification, send three copies of such Government Order or Notification along with the answer for the purpose of preparing ready reference files for the use of the Speaker and the leaders of parties.
- (4) In case of a starred question send the connected files to the Minister concerned as soon as the answer has been dispatched or at least a day before the meeting at which the question has to be answered. Before doing this, show the file, where possible, to the AS concerned so that he may ensure that the answers indicate the latest position.

#### **1.7 Further action on questions**

- (1) In order to ensure timely action, send one one-side manuscript copy of the finally edited proceedings of the Legislative Assembly relating to the question-portion, to the Secretaries to Government concerned, in name covers within three days after the day's sittings. (Assignee: Secretary Legislature)
- (2) It may so happen that during the debate on a subject pertaining to a particular department of the Secretariat, matters or aspects relating to some other department or departments of the Secretariat may be touched upon. In such cases, send extracts from debates not only to the Secretary concerned, but also the Secretaries of other departments which the debates touch upon. (Assignee: Secretary Legislature)
- (3) Circulate the copies of the extracts among the sections with reference to any supplementary question and answer without waiting for the final printed copies. (Assignee: MLO concerned)
- (4) If only an interim answer was given and further information has since been obtained, obtain orders as to which of the following courses should be followed.
  - (i) whether a further question from the Member may be awaited for supplying the information;
  - (ii) whether the information may be communicated to the Member by letter;

- (iii) whether the information may be placed on the Table of the House. (Assignee: AS concerned)
- (5) After the question is answered and after manuscript proceedings of the Assembly are received, either lodge or record the papers, if no assurance has been given on the floor of the Legislative Assembly. (Assignee: MLO concerned)
- (6) If an assurance has been given, take further action expeditiously. (Assignee: Secretary concerned)
- (7) After an answer to a Legislative Assembly un-starred question is dispatched, don't lodge or record the file till intimation regarding the date of placing of the answer on the Table of the House is received. (Assignee: MLO concerned)

## **1.8 Corrections**

### **1.8.1 Uncorrected proceedings of the Assembly**

- (1) Send one one-side manuscript copy of uncorrected proceedings of the Legislative Assembly as soon as they are ready relating to starred questions and statements or speeches made by Ministers, to the Secretaries of the departments concerned, in name covers or through e-office, soon after the day's meeting for factual verification of the replies and statements made by the Ministers on the Floor of House. (Assignee: Secretary Legislature)
- (2) If there are any factual errors of a minor nature in them, after obtaining the approval of the Ministers concerned, intimate them to the Assembly Secretariat within a week from the date of receipt of the uncorrected proceedings, to enable Secretary Legislature to carry out the alterations in the Press copy of the proceedings. (Assignee: Secretary concerned)

### **1.8.2 Statements by Minister to correct errors**

- (1) If major corrections have to be made, the Minister will make a statement on the Floor of the House after obtaining the permission of the Speaker.

## **1.9 Short notice questions**

- (1) Take orders of the Minister concerned whether he will consent to the waiver of notice and intimate to the Secretary concerned. (Assignee: Secretary Legislature)
- (2) Take necessary action immediately on receipt of the question without waiting for orders as to waiver of notice. (Assignee: Secretary concerned)

## **2 PROROGATION OF ASSEMBLY**

- (1) On the prorogation of a session, all pending notices and business shall lapse except Bills which have been introduced, Statutory Motions and Resolutions which have been moved in the House and notices of questions and questions which are pending.
- (2) Such Bills, Statutory Motions and Resolutions which have not lapsed, will be carried over to the next session from the stage reached in the expiring session provided that fresh notice is given by the Departments for Motions regarding the same.
- (3) Answers to questions should continue to be sent by the Secretaries concerned to the Secretary Legislature even after the prorogation of the session as notices of such questions do not lapse on the prorogation of the Assembly.

### **3 ASSURANCES**

#### **3.1 Role of Secretary Legislature**

- (1) Send to the Secretaries concerned in name covers or in e-office the extracts from the uncorrected proceedings of each day relating to the question portion and also the statements laid on the Table of the House in pursuance of the questions with necessary extracts from the entries made in their record of scrutiny of debates.
- (2) On receipt of Assurances, Promises or Undertakings given by the Ministers, either direct from the Secretary Legislature or through the Committee of Assurances, the Department should take urgent action.
- (3) Scrutinize the statements received from the Secretaries and place them before the Committee on Government Assurances for its consideration.
- (4) Send a copy of the decisions of the Committee on the implementation made, to the departments concerned.

#### **3.2 Role of Secretary concerned**

- (1) Furnish quickly proper and complete replies to the Assembly Secretariat keeping the Chief Secretary informed about the important Assurances.
- (2) Furnish sixteen copies, in English and Telugu, of Government orders issuing guidelines or sanctioning schemes or proposals in respect of each and every assurance. Inform the committees also where necessary.
- (3) Implement all assurances within a period of 30 days.
- (4) In cases of pending items, prepare a separate statement of action taken on each Assurance to the Secretary Legislature from the form given below.
- (5) The Departments have to take speedy measures for the expeditious implementation of the Assurances pending with them and invariably send periodical reports for review by the Committee.

FORM - Register of Assurances

Serial number	C number	Date	Subject	Promise made	Action taken by the department	Remarks
1	2	3	4	5	6	7

- (6) Systematically check the Registers of Assurances given by Ministers and send a review to General Administration Department once in three months.
- (7) Send the reports for the quarter ending March, June, September and December in the first week of April, July, October and January, respectively.

#### **4 PAPERS TO BE LAID ON THE TABLE OF THE HOUSE**

- (1) When papers are laid in the Table, supply 350 copies or such number as are asked for by the Secretary Legislature.
- (2) In the case of answers to questions, supply these copies along with the answers.
- (3) Prepare the copies with the following heading.

##### **PAPERS PLACED ON THE TABLE**

(See answer to Legislative Assembly Question No...put by Sri MLA)

- (4) Do not authenticate the copies. It is enough if they contain the name of the department from which they originate.
- (5) In the case of copies of rules, orders, notifications, statements or reports placed on the Table of the House in pursuance of statutory provisions or with reference to undertakings by the Government in answer to questions or otherwise, authenticate the copies.
- (6) Print the copies to be placed on the Table of the House with the following heading.

##### **ANDHRA PRADESH LEGISLATURE - PAPERS PLACED ON THE TABLE OF THE HOUSE**

(Subject.....)

(G.O. Ms. No. dated )

Published in the Andhra Pradesh Government Gazette on -.

As required under Section of Andhra Pradesh Act.

**Notification.**

Secretary to Government.

- (7) Place all rules framed in pursuance of delegation of legislative powers on the Table of the House without fail within a period not exceeding six months from the date of their publication in the Government Gazette.
- (8) Whenever a rule is amended and the amendment of the rule is placed on the Table of the House, print the respective original rule and the rule as amended side by side and place as Annexure as is being done in the case of amending Bills.



- (9) Maintain a separate Register on papers to be placed on the Table of the House in each section in your department as given below:-

S.No.	Subject	Date
1	Date of issue of notification	
2	Date on which the notification is sent to the Government Central Press for Publication	
3	Date of Publication.	
4	Date on which orders are issued for Printing copies of the papers to be laid.	
5	Date on which Proof is received.	
6	Date on which the corrected proof is sent back to the press with strike orders.	
7	Date on which the printed copies are received.	
8	Date on which copies are sent to Legislative Assembly Secretariat for laying.	
9	Date on which copies are placed on the Table of the House.	

- (10) Verify the register periodically at your level and get it verified at the level of AS/ MLO once in a month.
- (11) There are cases where the laying of the Annual Reports on the working and affairs of any Government Company or Undertaking together with a copy of the Audit Reports and the comments or supplement under sub-sections (2) and (3) of Section 619-A of the Companies, act, 1956 (Central Act I of 1956) or of the Annual Accounts including Audit Report thereon of any Government Undertaking is delayed beyond a period of one year from the last day of the financial year of such company or Undertaking. In such cases furnish a statement authenticated by the Minister-in-charge explaining delay in Annual Reports of Government Companies and Undertakings on the Table of the Legislative Assembly-

## 5 RESOLUTIONS

- (1) An advance copy of every resolution proposed to be moved in either Chamber of the Legislature shall, unless otherwise directed, be circulated to the Minister concerned as soon as a copy of it is received from the Legislative Assembly Secretariat.
- (2) The file containing the resolution with all available information shall be submitted to the Secretary who will decide on the need for consulting the Heads of Departments.
- (3) Notes on resolutions shall as far as possible be self-contained.
- (4) In printing notes on resolutions, the resolution itself should be printed in *Clarendon* type at the beginning of the note.
- (5) As soon as the ballot is declared, copies of the notes on the successful resolutions and the orders thereon should be circulated to all Ministers and the Chief Secretary to Government at least a day before the meeting of the Legislature.
- (6) No information relating directly or indirectly to the subject matter of a resolution shall be supplied to any Member of the Legislature without the orders of the Chief Minister.
- (7) Circulation of resolutions and Budget motions. These files shall be circulated to the Minister concerned as soon as they are ready and in any case not later than a day before the meeting at which they are required for reference.
- (8) Further action on resolutions. The department concerned is responsible for any further action that may be necessary in consequence of the replies made to resolutions or of their being passed by the Chamber of the Legislature in which they are moved.

## 6 PREPARATION OF DRAFT BILL

### 6.1 Introductory

The process of making laws requires, for its full and adequate performance, wide knowledge, precise conception of the objects desired to be achieved and the skill to express those objects in a precise, clear and unambiguous language admitting of no doubt or difficulty. As has been observed by experienced persons in the field of legislative drafting, these are not common acquirements. The drafting of Bills, being a high and splendid branch of the art of using language must, therefore, always be done by lawyers specially trained and experienced in this peculiar type of work as in the words of Lord St. Leonards "nothing is so difficult as to construct Acts of Parliament properly".

Apart from a sound and basic education, a legislative Draftsman, for the competent performance of his work, requires the following qualifications: -

- (1) a good grounding in law and familiarity with basic legal principles;
- (2) a full knowledge of the General Clauses Act, and the canons of interpretation evolved by Courts respecting enactments, that is, general principles of statutory construction;
- (3) a full and intimate knowledge of the Constitution, particularly the fundamental rights and the distribution of legislative powers between the Union and the States;
- (4) a full and intimate knowledge of the Indian Statute Book, especially the laws of the State with which he is concerned;
- (5) experience of the working of the three wings of the Government, namely, the legislature, executive (administration) and the judiciary (courts) and the type of the community which the laws deal with; and
- (6) ability to think and take decisions quickly on the legislative proposals put before him and also to express them in words both precise and unambiguous.

The Law Department is in charge of the preparation of drafting of all the Government Bills sponsored by the different departments of the Secretariat. The need for a Bill may arise from an infinite variety of causes. The constitutionality of the Bills sought to be enacted into law and the form, arrangement and wording of the Bills, must, no doubt, demand the primary attention of the Draftsman in the Law Department. But the preparation of a Legislative Bill involves many other considerations as well which are no less important.

The legislative Scheme must be sound and workable. It must fit into the general scheme of the Statute Book. The Draftsman should try to anticipate and provide for all problems and situations that are likely to arise. He must express the legislative policy or scheme in a clear, cohesive and unambiguous language, which is not always an easy task, so that the intentions of the sponsors, are carried out. Exigencies connected with Legislature and its procedure may require that the Bill should be couched in particular form so that its passage through legislature is made easy. All these indicate that the closest co-operation is essential between the department in charge of the Bill and the Legislative Draftsman.

## **6.2 Stages of initiating legislative proposals**

The following sub-paragraphs describe the different stages which the legislative proposals initiated by the State Government have to undergo before a draft Bill is finalised and introduced in the Legislature.

### **6.2.1 Approval of legislative policy.**

The first stage in the preparation of a Bill is the formulation of the Legislative policy. A statute is the formal and legal expression of a legislative policy, and therefore before the Bill is to be drafted, the policy sought to be implemented by it must be determined by the administrative department concerned. At this stage, administrative, financial or political considerations are more likely to be involved than legal considerations. Once these matters are settled by the Department concerned, the proposals for legislation should be referred to the Law Department for advice as to their feasibility from the legal and constitutional points of view. At this stage the Law Department takes up the proposal as a "legislative project" and tenders its advice generally on the need or desirability for such legislation in the light of the existing laws. The competency of the State Legislature to legislate on the subject under the Constitution, the consistency of the proposed measure with the provisions of the Constitution, the requirements of the Constitution for the proposed legislation such as the obtaining of the previous sanction of the President thereto etc., are also considered at this stage and the broad lines on which legislation may be undertaken are likewise indicated.

### **6.2.2 Preparation of memorandum.**

On receipt of this general advice, the administrative department has to come to a decision as to whether the proposed legislation should be proceeded with by circulating the case to the Chief Minister through the Minister in-charge of the administrative department, and the Law Department. If legislation is thus decided upon, the administrative department shall draw up a self-contained summary in the form of a

Memorandum on the proposal indicating with sufficient precision the lines on which it has been decided to legislate and also a Statement of Objects and Reasons. If the legislation involves expenditure from the Consolidated Fund of the State, a financial memorandum shall also be prepared in consultation with the Finance Department. The papers shall then be sent to the Law Department requesting it to take steps for drafting a Bill with a view to its introduction in the Legislature. The Law Department shall thereafter prepare a tentative draft Bill, scrutinise the Statement of Objects and Reasons and return the case to the Department concerned.

### **6.2.3 Drafting of Bill.**

The drafting of a Bill is a laborious process involving several stages, viz.,

- (1) Understanding
- (2) Analysis
- (3) Design
- (4) Composition and
- (5) Scrutiny.

The Draftsman moves in logical progression from one stage to another. The first and foremost task for the Draftsman before he starts to draft the Bill, is to understand what it is about; gain a thorough and complete understanding of the legislative proposal and familiarise himself with the subject matter thereof. He must be certain as to the "mischief and defect" intended to be remedied. The Draftsman should, therefore, be given the whole of the legislative proposal in full detail and be acquainted with so much of the background of what is proposed as is relevant. The drafting of a Bill proceeds at the maximum speed and with minimum friction, if complete drafting instructions are given to the Draftsman.

The practice of furnishing a draft Bill prepared by the administrative department in the place of the Memorandum should always be discouraged as it is always a handicap to the Draftsman, since he will be obliged to spend much more time to set right the defects in the draft Bill prepared by a non-draftsman, than the time required for preparing a Bill by himself. Although it is not for the Draftsman to determine legislative policy, he has to make a substantial contribution in this respect by filling in necessary details, since the memorandum of legislation is a broad statement of policy leaving numerous minor details still to be worked out. There will always be additional policy matters that cannot be known or foreseen until the drafting process is well underway. Moreover, the Draftsman must consider a Bill he is drafting in relation to

other statutes and case law on the subject and in order to harmonise his Bill with other statutes, he may very well have to suggest modifications in the prescribed policy.

As stated earlier, Bill drafting is a laborious process and essentially a task that ought to be carried out under conditions which allow sufficient time for deliberate thought and research upon many points that arise.

The drafting of a Bill is a co-operative process, in which many persons join their hands. As the substance of the law, policy behind it, the form of the law and such like matters are inextricably mixed up, it is often essential that conferences have to be held at various stages before a Bill can be finalised. A Draftsman cannot be expected to be an expert in every field of knowledge and therefore has to be educated up to a point where he will become qualified to deal with the subject matter of the Bill from the legislative point of view. It is important that the departmental officers who confer with the Draftsman should be of sufficient standing and should give authoritative answer to any questions which will come up in the process of drafting. Such conferences generally take place in the Law Department where books of reference are available and this is also convenient for all concerned. The question of status does not and should not have any bearing on these discussions. In the case of short Bills, one or two drafts, but in the case of longer Bills, several drafts, may have to be made and subjected to criticism both on files and at conferences. In the case of important and complex Bills, the process of drafting may be a long one, extending over several months as it involves consultation with officers and bodies connected with the proposed legislation. The process of revising the draft Bills must continue until the sponsors of the Bill and the Draftsman are both satisfied with the form and content of the Bill. After a Bill is prepared, it will be sent back to the Department concerned.

#### **6.2.4 Approval of draft bill by Cabinet.**

If the tentative Bill as prepared by the Law Department is approved by the Minister in-charge, and unless the Chief Minister otherwise directs, the draft Bill shall be brought before the meeting of the Council of Ministers. Proposals for any substantial or important amendments in the draft Bill after its approval shall also be dealt with similarly. If it is decided to proceed with the Bill with or without amendments, the originating department shall send the case to the Law Department requesting it to prepare a final draft of the Bill. The Law Department shall then finalise the draft Bill having due regard to the decisions of the Cabinet and send it to the originating department indicating at the same time the sanctions, if any, required for the Bill.

### **6.3 Cases requiring prior consent/consultation/recommendation**

#### **6.3.1 Cases needing previous sanction of the President.**

Under the proviso to clause (b) of Article 304 of the Constitution, no Bill or amendment which seeks to impose such reasonable restrictions on the freedom of trade, commerce, or intercourse within or without the State as may be required in the public interest, shall be introduced or moved in the Legislature of the State without the previous sanction of the President. Where the previous sanction of the President or the recommendation of the Governor is necessary for a Bill, the originating department shall obtain it.

#### **6.3.2 Cases requiring Governor's recommendation.**

- (1) **Article 207 (1).** A Bill or amendment making provision for any of the matters specified in sub-clauses (a) to (f) of clause (1) of Article 199 shall not be introduced or moved except on the recommendation of the Governor under clause (1) of Article 207 of the Constitution and a Bill making such provision shall not be introduced in a Legislative Council.
- (2) **Article 207 (3).** A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of a State shall not be passed by a House of the Legislature of the State, unless the Governor has recommended to that House the Consideration of the Bill under clause (3) of Article 207 of the Constitution.

#### **6.3.3 Cases needing prior consultation with GoI.**

In respect of certain types of Bills, the constitution requires some formalities to be complied with before their introduction in, or consideration by, the Legislature. If a Bill proposed to be introduced in the Legislature falls within the concurrent legislative field, or which attracts the provisions of Article 31-A (1) and 31-C of the Constitution and Bills on land reforms, the administrative department principally concerned shall, wherever possible, consult the administrative department of the Government of India, dealing with the subject matter of the Bill on the proposed legislation. Such consultation will also help in certain cases to bring to light at an initial stage defects or drawbacks in the proposed legislation which would otherwise be noticed at a later stage, when the Legislation is submitted for the President under Article 200 of the Constitution of India. This does not, however, impose restriction on the State Government to take independent action, should the State Government consider that the need for action is so urgent that consultation is not possible in any particular case, but whenever such an exception is made, the Government of India may be informed

as soon as possible. Consultation with the Government of India shall also be necessary in cases where a Bill may seek to amend a law falling within the concurrent field or attracts provisions of Article 31-A (1) of the Constitution.

**6.3.4 Amendment requiring previous sanction of President/ Governor.**

- (1) If an amendment proposed to be moved by the Minister in-charge of the Bill is one which requires the previous sanction of the President or recommendation of the Governor under the Constitution or in respect of which a doubt arises whether such sanction or recommendation is necessary, the Administrative Department shall submit the papers to the Governor for orders through the Minister or Ministers concerned, and the Chief Minister.
- (2) Where an amendment proposed to be moved by a non - official member of the Legislature is one which requires the previous sanction of the President or recommendation of the Governor under the Constitution or in respect of which a doubt arises whether such sanction or recommendation is necessary and if it appears that no such sanction has been obtained, the Administrative Department shall bring the matter to the notice of the Minister in-charge and the Chief Minister as well as the Governor.

Note: The Administrative Department shall consult the Law Department on every question whether a proposed amendment does or does not require the previous sanction of the President or recommendation of the Governor.

**6.3.5 Send certain bills to law ministry of GoI.**

Ten copies of every Bill introduced by a private member in the Legislative Assembly which falls within the concurrent legislative list or which attracts the provisions of Articles 31-A (1) and 31-C of the Constitution or which relates to land reforms and which is likely to go forward, shall, at some convenient stage after its introduction, be forwarded by the Law Department to the Government of India, Ministry of Law.

**6.3.6 Send certain bills to administrative dept. of GoI.**

A copy of every Bill which falls within the concurrent legislative list or which attracts the provisions of Articles 31-A (1) and 31-C of the Constitution or which relates to Land Reforms and which is likely to go forward shall be forwarded by the Administrative Department principally concerned to the Administrative Department of the Government of India dealing with the subject matter of the Bill, at some convenient stage after its introduction. If time permits, the Administrative Department shall also inform the Government of India of all important amendments to such Bills.



## **7 INTRODUCTION OF BILL**

### **7.1 Introduction of Bill in Legislature**

The originating Department shall prepare a notice of motion for leave to introduce the Bill in the Legislative Assembly or the Legislative Council, as the case may be, and shall, after obtaining the signature of the Minister in-charge, forward the notice together with a copy of the Bill and a Statement of Objects and Reasons, and the memorandum under rule 95 of the Assembly Rules regarding the assent of the Governor or the President, as the case may be, and Financial Memorandum and the Memorandum on delegated legislation, if any, to the Secretary to the State Legislature. If a Bill, which under the Constitution, cannot be introduced without the previous sanction of the President or the recommendation of the Governor, as the case may be, such sanction or recommendation shall also be annexed to the Bill.

### **7.2 Choice of House for introduction of Bill**

The Choice of the House in which a Bill (other than a Bill to which clause (1) of article 199 applies) is to be introduced is often a matter of convenience depending upon the state of legislative business. But more often than not, a Minister may feel that the subject matter of the Bill of which he is in charge is of such a nature that the directly elected representatives of the people should first consider the measure and, therefore, the Bill should be introduced in the Legislative Assembly.

Article 198 and 207 of the Constitution prohibit the introduction in the Legislative Council of Money Bills, that is to say, Bills which contain only provisions dealing with all or any of the matters specified in clause (1) of article 199 and other Bills making provisions for any of the matters specified in sub-clauses (a) to (f) of that clause along with other matters. Such Bills are generally referred to in this Memorandum as Money Bills. Subject to the above restrictions, Bills may originate in either House of the Legislature as stated above.

Apart from the fact that Money Bills cannot be introduced in the Legislative Council, the question whether a Bill is a Money Bill or not assumes importance with respect to matters of procedure. The Legislative Council does not 'pass' such Bills. It only returns them to the Legislative Assembly. The Legislative Council cannot make amendments in a Money Bill, its power being limited to making recommendations to the Legislative Assembly in respect thereof. The time within which a Money Bill has to be returned by the Legislative Council is limited to fourteen days and if the Bill is not returned to the Legislative Assembly with or without recommendations

within the time so limited, the Bill is deemed to have been passed by both the Houses at the expiration of the said period of fourteen (14) days in the form in which it was passed by the Legislative Assembly. The Legislative Assembly may or may not accept the recommendations made by the Legislative Council see - Article 198.

The question whether a Bill is a Money Bill or not is one of complexity. The Speaker's decision on the subject, however, is final. Where a Bill is held by the Speaker to be a Money Bill, he endorses a certificate to that effect both when the Bill goes to the Legislative Council and also when it is presented to the Governor for his assent - See Article 199 (4).

On the notice of motion for leave to introduce being given by the member concerned, the Bill passes to the control of the Legislature Secretariat and it is then the responsibility of the Legislature Secretariat to get fair copies of the Bill published/printed and distributed to the members after the Bill is introduced and to take all further steps in connection therewith including translation and the publication of the translated Bill in the Gazette and supply thereof to the members. Demands for copies of the Bills required for the use of departments should be made to the Legislature Secretariat. When a Bill is introduced in one House, copies of the Bill are circulated to the members of the other House also more or less simultaneously.

A Bill which is dependent wholly or partly upon another Bill pending before the Legislative Assembly may be introduced in that House in anticipation of the passing of the Bill on which it is dependent. But the second Bill cannot be taken up for consideration and passing until the first Bill has been passed by the Legislature and assented to by the Governor or the President, as the case may be - See rule 90 of the Rules of the Assembly.

### **7.3 Legislature secretariat arranges for introduction of Bills**

Bills are put down on the Agenda for introduction on suitable days. On the specified day, the Minister in-charge of the Bill moves a motion for leave to introduce the Bill and the motion is not ordinarily opposed. As soon as may be after the Bill has been introduced, it is published in the Andhra Pradesh Gazette, but it is possible for a Bill to be published earlier in the Andhra Pradesh Gazette if the Speaker of the Legislative Assembly or the Chairman of the Legislative Council, as the case may be, on a request being made to him, order the publication of the Bill in the Gazette before any motion is made in either House in respect thereof. In such a case it is not necessary to move a motion for leave to introduce the Bill or to publish it again in the Gazette - See Rule

97 of the Rules of the Assembly and Rule 104 of the Rules of the Council. Once it is known that certain Bills are likely to come up for any kind of consideration, the Business Advisory Committee composed of members of the House concerned allot a time limit for each of the Bills and every attempt is made by the House to adhere to the time-schedule.

#### **7.4 Motions in respect of Bills**

After copies of the Bill have been made available to the members of the House in which it has been introduced, it is open to the member in charge to make one of the following motions in respect of the Bill, namely:-

- (1) that it be taken into consideration; or
- (2) that it be referred to a Select Committee of the House; or
- (3) that it be referred to a Joint Committee of both the Houses with the concurrence of the other House; or
- (4) that it be circulated for the purpose of eliciting public opinion thereon - See Rule 99 of the Rules of the Legislative Assembly and Rule 106 of the Rules of the Legislative Council. The former Rule incidentally further provides that no motion for reference to a Joint Select Committee can be made in respect of a Money Bill.

When any of the above motions is moved, the principles of the Bill and its provisions are discussed generally, but no amendments are moved at that stage. But if the member in-charge moves that the Bill be taken into consideration, any member may move an amendment that it be referred to a Select Committee or a Joint Committee or that it be circulated for eliciting public opinion. When a Bill is circulated for public opinion the next motion to be made after obtaining public opinion is generally for referring the Bill to a Select Committee or a Joint Committee.

#### **7.5 Consideration of bills by select/ joint select committee**

- (1) **Intimation of select committee meeting.** As soon as a department in-charge of a Bill receives notice of meeting of the Select Committee of the Legislature in respect thereof, it shall intimate the fact immediately to every other department which is concerned with the Bill.
- (2) **Attendance by draftsman.** If a Bill is referred to a Select Committee or a Joint Select Committee, the Draftsman who prepared the Bill attends all meetings thereof and is responsible for revising the Bill in the light of the decisions taken at the meetings of the Committee. Although not a member of the Committee, the

Draftsman is often permitted to take part in the proceedings thereof when legal issues are involved.

- (3) **Procedure of select committee.** The procedure followed in the Select Committee is, as far as practicable, the same as that followed in the House during the consideration stage of a Bill. For instance, amendments of the nature referred to in Article 207 (1) require recommendation of the Governor before they can be moved in a Select Committee, and such recommendation should be communicated to the Secretary of the Legislature Department. A record of decisions taken by the Committee is maintained in the Legislature Secretariat and is distributed to members of the Committee soon after each meeting. The Committee has power to examine witnesses or to call for documents, and is required under the rules to present its report with the Bill as amended by it to the House appointing it, within the time fixed in that behalf; and if no time is fixed by the House, within three months from the date on which the motion for reference to the Select Committee was adopted. In the case of a Joint Select Committee, the report is presented to both the Houses.
- (4) **Preparation of Report.** The notice for the presentation of the report of the Select Committee on a Bill to the Legislature by the Minister in-charge of the Bill shall be prepared by the Administrative Department, and sent to the Office of the Legislative Assembly. A copy of the notice should be sent to the Law Department also.
- (5) **Forwarding amendments to GoI.** In the case of every Bill ten copies of the report of every Select Committee on a Bill and of the Bill as amended by the Select Committee shall be forwarded by the Law Department to the Government of India, Ministry of Law, at the time of the presentation of the report to the Legislature.

## 7.6 Amendments

- (1) **Proposed by Minister.** All amendments to Bills which are to be proposed by the Minister shall be framed by the Administrative Department in consultation with the Law Department. Notices to the Legislature in regard to proposed amendments shall also be prepared by the Administrative Department.
- (2) **Proposed by select committee/ members during consideration.** The amendments recommended by the Select Committee and also to all amendments, notice of which is given by Members of the State Legislature for being moved during the consideration of a Bill in the Legislature.

## **7.7 Amendments during consideration**

When a Bill (whether it has been examined by a Select Committee or a Joint Committee or otherwise) comes up before either House for consideration, and it is in its second reading stage, it is open to the members of the Houses to move amendments. Broadly speaking, they should be within the scope of the Bill and relevant to the subject matter of the clause to which they relate. For example, where a Bill seeks to amend certain sections of an existing Act, it is not correct to move an amendment to a section which is not covered by the amending Bill. However, this rule is not applicable in the case of amendments to a Bill seeking to extend an Act, which is in force in one area to another area of the State. In such Bills amendments can be moved to a section of the Act which is not covered by the Bill, the reason being that in the case of Bills extending an Act the whole Act is under consideration of the House. Amendments which fall within Articles 207 (1) and 304 are subject to the same restrictions with regard to the recommendations or previous sanction of the President as Bills falling within those Articles are, except where the amendment is for the purpose of reducing or abolishing any tax, when no recommendation of the Governor is necessary.

There are rules relating to notice of amendments which are designed with a view to giving the Minister concerned an opportunity of considering the amendments administratively or politically, and also to consult the Draftsman. The Draftsman is also generally available in the official gallery or lobby during the progress of any Bill that he has drafted. In spite of these precautions, very often the progress of a Bill is so rapid that the Draftsman gets no opportunity of examining the effect of any amendment proposed or of repairing any damage done by hasty acceptance of ill drafted amendments. Moreover, a hastily drawn up amendment during the course of heated discussion in the House may not always come right even if prepared or vetted by the official Draftsman.

## **7.8 Correction of patent errors in Bills**

Under a rule made in this behalf both the Speaker of the Legislative Assembly and the Chairman of the Legislative Council have power to correct patent errors and make such other changes in the Bill as are consequential on the amendments accepted by the House - See Rule 127 of the Rules of the Legislative Assembly and Rule 127 of the Rules of the Legislative Council.

## **7.9 Assent to Bills after passing**

- (1) The Bill is printed by the Legislature Secretariat with the superscription "As passed by the Legislature" and three assent copies on thick paper authenticated by the Speaker or Chairman, as the case may be, are thereafter sent by that Secretariat

to Governor's Secretariat for submission to the Governor for his assent or for reserving the Bill for the consideration and assent of the President. The Governor will then refer the Bill as so received to the Law Secretary for his opinion as to whether the Governor may give his assent thereto or as to whether it is necessary for him to reserve the same for the consideration and assent of the President. It is necessary to reserve the Bills falling under sub-paragraph (2) for the consideration and assent of the President.

**(2) Cases in which reservation of the Bill as passed by the State Legislature for the consideration and assent of the President is required.**

- (i) **Article 31 (A) :** Under the proviso to clause (1) of Article 31-A, any law made by the Legislature of a State providing for any of the matters specified in sub-clauses (a) to (e) of clause (1) must receive the assent of the President after having been reserved for his consideration. Then only the saving provided in that Article shall apply to such law.
- (ii) **Article 31 - C :** Under the proviso to Article 31-C of the Constitution a law made by the Legislature of a State for giving effect to the directive principles of the State towards securing the principles specified in clause (b) or clause (c) of Article 39 shall be reserved for the consideration and assent of the President.
- (iii) **Article 200, second proviso:** Any Bill, which in the opinion of the Governor would, if it became law, so derogate from the powers of the High Court as to endanger the position which that Court is by the Constitution designed to fill, shall not be assented to by the Governor but shall be reserved for the consideration of the President.
- (iv) **Article 254 (2):** A law made by the Legislature of a State with respect to one of the matters in the concurrent list containing any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter shall prevail in the State if it has been reserved for the consideration of the President and has received his assent.
- (v) **Article 288 (2):** A law made by the Legislature of a State imposing a tax or authorising the imposition of a tax in respect of any water or electricity stored, generated, consumed, distributed or sold by any authority established by any existing law or any law made by Parliament for regulating or developing any inter-state river or river valley shall not have any effect, unless it has, after having been reserved for the consideration of the President, received his assent.

(3) **Consideration and assent of the President.** Bills reserved for the consideration of the President should be transmitted to the Ministry of Home Affairs, allowing a reasonable time of not less than a fortnight from the date of receipt of the Bills at the Centre for the examination of their provisions. The extent of repugnancy to existing Central laws on the subjects enumerated in the Concurrent List should be clearly explained in the forwarding letter in the case of legislation attracting the provisions of Art.254(2) of the Constitution. Similarly, in the case of legislation which is reserved for the consideration of the President for some other reason, the specific ground on which it is so reserved should be clearly brought out in the State Government's forwarding letter and the relevant provisions of the Constitution should be specifically quoted. The following documents should be forwarded along with such legislative proposals:-

- (a) three authentic copies of the Bill, printed on parchment paper each endorsed by the Governor reserving the Bill for the consideration of the President, and leaving sufficient space below the Governor's signature for appropriate endorsement by the President.
- (b) Six other copies of the Bill as passed by the State legislature.
- (c) Six copies of the Bill as introduced with the Statement of Objects and Reasons therefor.
- (d) the report of the Select Committee of the State Legislature, if any, along with three copies of the Bill as approved by that Committee.
- (e) In case the legislation is an amending Bill six upto-date copies of the principal Act, and a comparative statement showing each relevant clause as it exists, and as it would read after the proposed amendment, may be sent.

(4) **The certificates given below should be submitted with every proposal:-**

**I. Certificate in the case of Bill/Ordinance sent for approval and Bill sent for previous sanction of the President.**

Subject: -

Certified that the following documents in connection with the above mentioned legislative proposal have been attached herewith: -

- (1) Six copies of the letter of State Government forwarding the proposed draft legislation.
- (2) Six copies of the proposed legislation together with an equal number of copies of the Statement of Objects and Reasons for it.

- (3) The proposed legislation is an amending one. Six upto date copies of the principal Act, Notes on clauses of the proposed legislation and a comparative statement showing each relevant clause as it exists, and as it would read after the proposed amendment, are also therefore attached.

\*\*Signature.

## **II. Certificate in the case of Bill sent for obtaining assent of the President.**

**\*Subject:-**

Certified that the following documents in connection with the above mentioned legislative proposal have been attached herewith:-

- (1) Six copies of the letter of the State Government forwarding the proposed legislation.
- (2) Three authentic copies of the legislation printed on parchment paper, each endorsed by the Governor reserving the legislation for the consideration of the President, and leaving sufficient space below the Governor's signature for appropriate endorsement by the President.
- (3) Six other copies of the Bill as passed by the State Legislature.
- (4) Six copies of the Bill as introduced with the Statement of Objects and Reasons therefor.
- (5) The report of the Select Committee, if any, along with three copies of the Bill as revised by that Committee.
- (6) The legislation is an amending one. Six upto date copies of the Principal Act, Notes on the clauses of the proposed legislation and a comparative statement showing each relevant clause as it exists, and as it would read after the proposed amendment, are also therefore attached.

Signature.

**Note:-**

- (1) \*Please give long title of the Legislative proposal.
- (2) \*\*The certificate should be signed by the officer under whose signature the proposal is sent.



### 7.10 Gazette publication of the Bill

- (1) When a Bill passed by the Legislature is assented to by the Governor or the President, as the case may be, the Law Department shall provide a number and cause the Bill to be published in the Andhra Pradesh Gazette as an Act of the Legislature.
- (2) **Date of coming into force.** A Bill becomes law as soon as it is assented to by the Governor or the President and unless expressed to come into operation on a particular day by a provision made in the law or by a notification issued there under, it comes into operation on the day on which the said assent is first published in the Official Gazette.

### 7.11 Forwarding copies

#### (1) By law department:

- (i) **to MHA:** One copy of the Act assented to by the Governor shall also be forwarded by the Law Department to the Ministry of Home Affairs, together with information as to the number of the Act, the date of assent and the date of publication of the Act in the Andhra Pradesh Gazette.
- (ii) **to law ministry:** Ten copies of all Acts, assented to by the Governor, shall be forwarded by the Law Department to the Government of India, Ministry of Law.
- (iii) **to Supreme Court:** One copy of the Act assented to by the Governor shall also be forwarded by the Law Department to the Registrar, Supreme Court, together with information as to the number of the Act, the date of assent and the date of publication of the Act in the Andhra Pradesh Gazette.
- (iv) **to High Court:** One copy of the Act assented to by the Governor shall also be forwarded by the Law Department to the Registrar, High Court, together with information as to the number of the Act, the date of assent and the date of publication of the Act in the Andhra Pradesh Gazette.
- (v) **to Advocate General:** One copy of the Act assented to by the Governor shall also be forwarded by the Law Department to the Advocate General, together with information as to the number of the Act, the date of assent and the date of publication of the Act in the Andhra Pradesh Gazette.
- (vi) **to Raj Bhavan:** One copy of the Act assented to by the Governor shall also be forwarded by the Law Department to the Secretary to the Governor, together

with information as to the number of the Act, the date of assent and the date of publication of the Act in the Andhra Pradesh Gazette.

(2) **By administrative department:** The Administrative Department concerned shall as soon as possible send -

(i) **to MHA.** the Ministry of Home Affairs, five copies of every Ordinance or Act relating to the public order and jurisdiction and powers of Criminal Courts in the State ; and

(ii) **to MoD.** the Ministry of Defence, one copy of every Act or Ordinance or Order passed or promulgated with a view to cope with civil disturbances in the State.

(3) **Return of authenticated copy to the Legislature:** One copy of the Bill authenticated by the Speaker or Chairman of Legislative Assembly or Council, as the case may be, as passed by the Legislature and assented by the President or Governor, as the case may be, returned by the Law Department to the Legislature Department. (Out of the three original assented Bills, one will be retained by the President/Governor, one by Law Department and the other will be returned to the Legislature Department.)

## **8 SUPPLEMENTAL**

### **8.1 Ordinances and Regulations**

The procedure described in the foregoing paragraphs (except in so far as it relates to anything to be done in the Legislature) applies also, generally speaking, to the drafting of Ordinances which may be promulgated by the Governor under article 213 of the Constitution and to the drafting of Regulations to be made by the Governor under paragraph 5 to the Fifth Schedule in relation to Scheduled Areas. An Ordinance shall not be promulgated without instructions from the President if-

- 1) A Bill containing the same provisions would under this Constitution have required the previous sanction of the President for the introduction thereof into the Legislature, or
- 2) the Governor would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the President; or
- 3) an Act of the Legislature of the State containing the same provisions would under this Constitution have been invalid unless having been reserved for the consideration of the President, it had received the assent of the President.
- 4) Ordinance requiring the previous instructions of the President under the proviso to Article 213 (1) of the Constitution.

All legislative proposals, which are to be enacted by means of an Ordinance and which require the previous instructions of the President under the proviso to Article 213 (1) of the Constitution, should be forwarded to this Ministry, allowing sufficient time, say a fortnight, for their examination. Six copies of the draft Ordinance, accompanied by other relevant documents mentioned above, should be forwarded. The forwarding letter should explain the necessity for the promulgation of the Ordinance, the object sought to be achieved by the proposed legislation and the specific ground on which it is considered necessary to obtain the President's instructions for the promulgation of the Ordinance. The relevant Articles of the Constitution which render such approval necessary should also be quoted.

In every case whenever a Bill is sent for the assent of the President, the State Government shall clarify in the forwarding letter whether the proposal had been sent earlier for the approval of the Central Government prior to its introduction in the State Legislature, and if so, which of the suggestions / observations made by this Ministry in regard to that proposal have been incorporated with or without modifications as also which of the suggestions / observations have not been carried out with reasons therefor. Take similar action in respect of other Legislative proposals e.g. when a Bill is sent for replacing an

Ordinance for which previous instructions of the President had been obtained earlier.

Each Bill should be endorsed by the Governor reserving the Bill for the consideration of the President, leaving sufficient space below the Governor's signature for appropriate endorsement by the President.

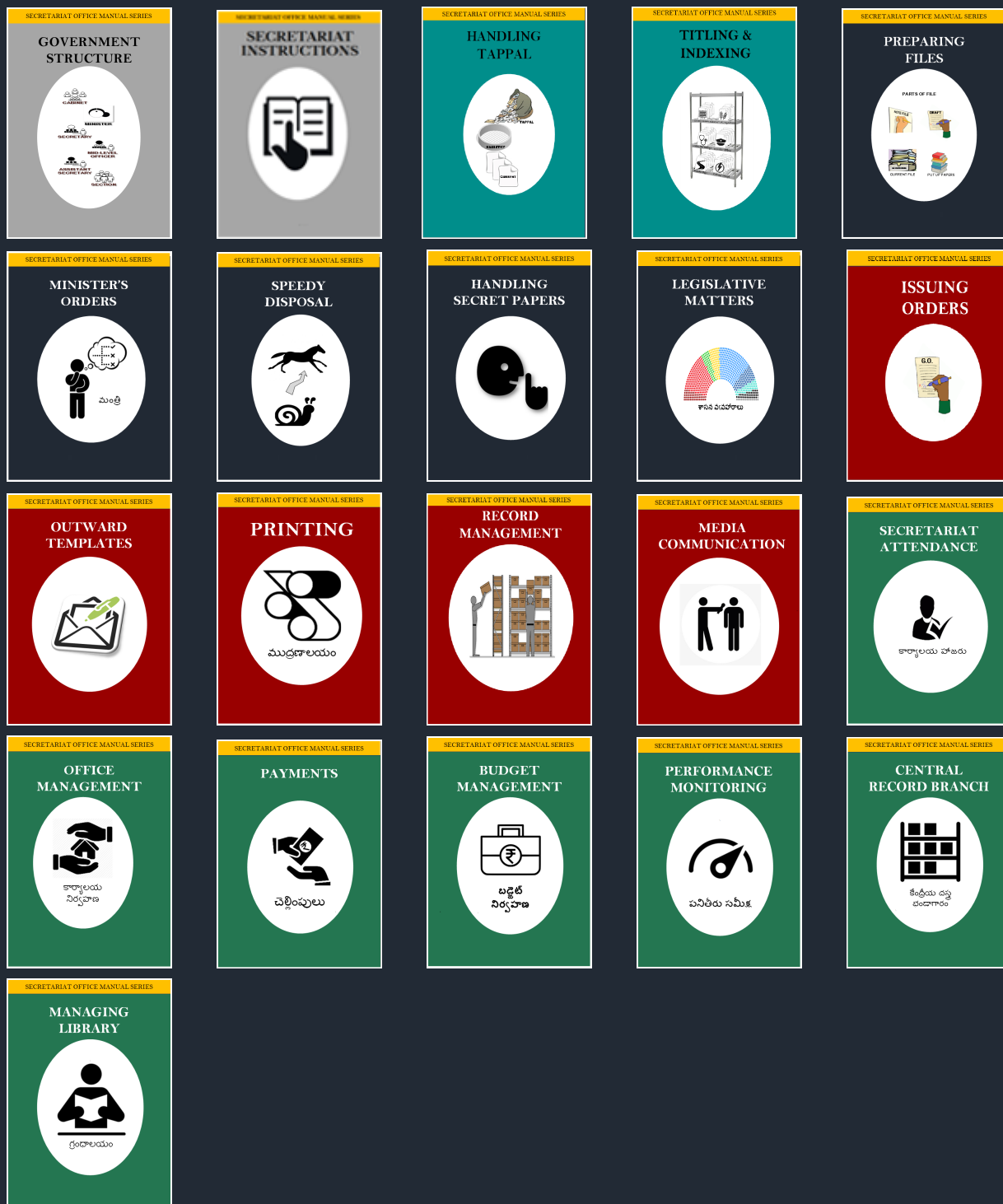
Similarly, a Regulation shall not be made under paragraph 5 of the Fifth Schedule to the Constitution, unless the Governor, in the case where there is a Tribes Advisory Council for the State, has consulted such Council.

Once the draft of the Ordinance is settled and orders for its promulgation are obtained by the administrative department concerned, the Law Department submits it to the Governor for his signature through the Law Minister, Minister in charge of the administrative department and the Chief Minister. The Governor's Secretariat returns the signed copy of the ordinance to the Law Department for promulgation and the Ordinance is then promulgated and published in the Andhra Pradesh Gazette.

Rule 159 of the Rules of the Legislative Assembly requires that, whenever a Bill seeking to replace an Ordinance is introduced in the House, a statement shall be placed before the House along with the Bill explaining the circumstances which necessitated immediate legislation by Ordinance. Similarly, whenever an Ordinance which embodies wholly or partly the provisions of any Bill pending before the House is promulgated, a statement explaining the circumstances which necessitated immediate legislation by Ordinance shall be laid on the Table of the House at the commencement of the session following the promulgation of the Ordinance.

## **8.2 Information to GoI**

The Government of India shall be informed of any difficulties encountered in the working of the laws falling within the concurrent legislative field or which attract the provisions of Articles 31-A(1) and 31-C of the Constitution or which relate to Land Reforms in order that legislation in that field shall, as far as possible, be undertaken only after consultation between the State and Central Governments; the method of consultation to be either by correspondence or conference, according to the importance of the legislation or the urgency of the case. Correspondence in this regard shall be between the Administrative Departments



- Introductory
- Inward
- Outward
- Decision Making
- Office procedure

GENERAL ADMINISTRATION DEPARTMENT  
GOVERNMENT OF ANDHRA PRADESH

